ment for the plaintiff. [1921] 1 K. B. 456. The defendants appealed. Thereafter the British Government concluded a trade agreement with the Soviet Government and the British Foreign Office announced that the Soviet Republic was recognized as the *de facto* Government of Russia. The Court of Appeal approved of Justice Roche's decision as based upon the evidence then presented, but unanimously reversed the decision and non-suited the plaintiff because of the recognition which had been extended meanwhile to the Soviet Republic. *Luther* v. *Sagor & Company,* 37 T. L. R. 777, 65 S. J. 604.

The case is an interesting illustration of the utter dependence of the courts upon the political departments of government in all matters pertaining to the recognition of foreign states or governments. The question is discussed in 18 MICH. L. REV. 531.

MARRIAGE—VALIDITY OF COMMON LAW MARRIAGE.—A statute provided that marriages should be celebrated only by certain persons, and that any unauthorized person solemnizing a marriage should be fined and "such marriage shall be void, unless it be in other respects lawful and be consummated with the full belief by either of the parties in its validity." Plaintiff and decedent had agreed to take each other as man and wife, and had cohabited as such. Plaintiff contended there was a good common law marriage, as the statute did not expressly make such a marriage void. *Held,* that the marriage was invalid. The history and legislation of the colonists prior to the adoption of the common law indicates that a non-ceremonial marriage was not thought to be suitable to our institutions, and hence the common law rule respecting marriages was never adopted by us. *Wilmington Trust Co.* v. *Hendrixson* (Del., 1921), 114 Atl. 215.

The majority of American courts hold that a non-ceremonial marriage, being good at common law, is still valid, unless its validity is expressly nullified by statute. *Meister* v. *Moore,* 96 U. S. 76; *Hulett* v. *Carey,* 66 Minn. 327; *Heymann* v. *Heymann,* 218 Ill. 636. It has been held in England by the House of Lords that a non-ceremonial marriage did not constitute a full marriage at common law, but only gave either party the right to compel solemnization by application to the ecclesiastical courts. *Regina* v. *Millis* (1844), 10 Clark & F. 534. This decision by the House of Lords came after many American courts had recognized that a non-ceremonial marriage was good at common law. Hence, in many American jurisdictions we have adopted as the common law what the House of Lords has declared was not the common law. Several American courts have, however, since that decision, held that a non-ceremonial marriage is valid, because at the time the common law was adopted in this country such a marriage was considered to be good. *Dyer* v. *Brannock,* 66 Mo. 391; *Carmichael* v. *State,* 12 O. St. 553. The Missouri court in *Dyer* v. *Brannock, supra,* stated that the common law adopted in this country was the common law as expounded by Sir William Blackstone and Chancellor Kent, and not the common law as expounded by the House of Lords. In *Denison* v. *Denison,* 35 Md. 361, the court followed the English rule, and held that as we have no tribunal, as in England, clothed with the power to enforce the solemnization of marriages

between parties contracting *per verba de praesenti,* this part of the common law was not adopted by them. The majority of American courts, however, holding that a common law marriage is invalid do so upon the ground that statutes providing that marriages shall be celebrated by certain persons and imposing a fine upon any unauthorized person solemnizing a marriage are mandatory and not directory. *Ann Cas.* 1912D, 597, and cases there cited. In several American states which formerly recognized a common law marriage the rule has been changed by statute. *Schumacher* v. *Great Northern Ry. Co.,* 23 N. D. 231; *Norman* v. *Norman,* 121 Cal. 620; *Ann Cas.* 1912D, 597. The principal case seems to be in accord with the legislative tendency to recognize as valid only a ceremonial marriage.

PARTIES—CAPACITY TO SUE AND BE SUED—UNINCORPORATED ASSOCIATIONS. —An unincorporated association was sued in its own name. *Held,* that even though there was a general appearance by the defendant, the court did not get jurisdiction, because a "suable party" is necessary to jurisdiction. *Grand International Brotherhood of Locomotive Engineers* v. *Green* (Ala., 1921), 89 So. 435.

At common law an unincorporated association cannot sue nor be sued in its own name, but only in the names of the individual members. DICEY ON PARTIES, Rule 20, p. 169. Many decisions support the view that the rule is one of form rather than of substance. In *Beatty and Ritchie* v. *Kurtz,* 2 Peters 566, the members of a committee sued in their own names in behalf of an association, and Justice Story said: "* * * we do not perceive any serious objection to their right to maintain the suit." See also *Guilfoil* v. *Arthur,* 158 Ill. 600. Failure of the defendant to take advantage of the want of capacity to sue on the part of an unincorporated association by means of a demurrer or plea waives the defect. *Franklin Union* v. *People,* 220 Ill. 355. In *Barnes* v. *Chicago Typographical Union No. 16,* 232 Ill. 402, an injunction issued against an unincorporated association in its own name was sustained. The want of capacity to be sued was described as "but a technical objection" in *Krug Furniture Co.* v. *Union of Woodworkers,* 5 Ont. L. Rep. 463. See, *contra, The Proprietors of the Mexican Mill* v. *The Yellow Jacket Silver Mining Co.,* 4 Nevada 40, where the court held that a suit brought in a co-partnership associate name was a "nullity." In *Crawley* v. *American Society of Equity,* 153 Wis. 13, the defendant, an unincorporated association, was sued in its own name. It answered and litigated the merits, and then raised the question of its capacity to be sued. The court said: "* * * in view of the tendency to more and more brush aside non-prejudicial technicalities in order that substantial justice may be done * * * if plaintiff so desires, the action may proceed to judgment against those who were members of the board of directors * * *." Under similar facts, the court in *Deems et al.* v. *Albany & Canal Line,* 7 Fed. Cas. No. 3736, held that it was too late for the defendant to object that it was not properly sued. Moreover, with respect to its capacity to sue or be sued, an unincorporated association is regarded exactly as a partnership. DICEY ON PARTIES (2d Am. ed.), p. 170. It has been held that where a partnership sued in its own name the